

**MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK**

**INFORMAL SESSION  
May 1, 2006**

The Board of Supervisors of Maricopa County Arizona convened in Informal Session at 10:00 a.m., May 1, 2006, in the Board of Supervisors' Conference Room, 301 W. Jefferson, Phoenix, Arizona, with the following members present: Don Stapley, Chairman, District 2; Fulton Brock, Vice Chairman, District 1 and Max W. Wilson, District 4. Absent: Andrew Kunasek, District 3 and Mary Rose Wilcox, District 5. Also present: Lori Pacini, Deputy Clerk of the Board; Cassandra Harris, Administrative Coordinator; David Smith, County Manager and Bruce White, Deputy County Attorney. Votes of the Members will be recorded as follows: aye-nay-absent-abstain.

**AIR QUALITY UPDATE**

Item: Presentation regarding air monitoring practices, current air quality compared with air quality of previous years, the county's involvement with other cities/MAG regarding air quality efforts, and public outreach. (C8506023M00) (ADM2375)

*Robert Kard, Director, Air Quality Department*

Mr. Kard stated that he was pleased with the improvements and ongoing progress since he joined the Maricopa County Air Quality Department, and that he had some great things to report.

Particulate issues are an ongoing problem, and so far this year Maricopa County had logged 15 days where at least one of the monitors exceeded the federal standard for particulate matter, putting Maricopa County out of the running to comply by the end of 2006. The maximum is an average of one exceedance day over a three year period, e.g. one day for the three years or three days in one year, as long as the other years did not have any exceedances. The various contributing factors detailed in the Maricopa County Association of Governments (MAG) 1995 and 2006 Regional PM-10 Emissions modeling charts were discussed.

Chairman Stapley asked about the status of the Rock Products Lawsuit. Mr. Kard stated that he hoped the Environmental Protection Agency (EPA) would allow a side-by-side study to enhance the effectiveness of wheel washers vs. rumble grates and gravel pads.

Mr. Kard reported that the EPA conducted a study of the Proposed Particulate Standards. One concern is the new Rule would exclude mining (any non-metallic, mineral mining which are the sources covered by Rule 316) and agricultural sources. He stated that these sources contribute to emissions and if exempt from regulation, it would be difficult to monitor because it is not feasible to separate out or differentiate those PM emissions from the other kinds that are in the Valley – and both are significant. Mr. Kard stated that a letter had been written to the EPA outlining the County's position, emphasizing that the new rule would not be stringent enough and leaves out key sources.

Mr. Kard reviewed the 2002-2005 PM-10 Exceedance Days Chart and pointed out that in 2002 and 2003, the monitors recorded once every six days and, if there were events (wind blown dust/construction activities) on days the monitors were not in use, activity would not have been registered. Because of this, the EPA multiplies the number of exceedance days by six, resulting in 12 exceedance days in 2002 and 24 exceedance days in 2003. Full-time monitors were put in use in 2004 and are continuous, 24/7.

Public outreach is enhanced by a program being developed by outside consultants to reach out to the public on the concerns of the PM-10 and ozone issues, and to get everyone vested in the process of cleaning up the air. Meetings, which are being held with key stakeholders and partners, should pay off. A mandate does exist in terms of controlling PM-10 emissions now under a Rate of Progress Plan. This Plan has to be developed and implemented by the end of 2006 showing a 5% reduction in PM-10 pollution across the board from all sources each year until attainment is reached. This will present a

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dilemma with the new EPA proposals regarding PM-10 because the one area where the County is mandated to develop reductions, the contributing factors are being excluded.

Mr. Kard referred to the photos in the presentation materials, which depicted various scenarios of the lack of dust control, and reported that the names and settlements of offenders are published in the newspaper. He indicated that an advisory committee with members of the State and the Maricopa County Farm Bureau would be meeting May 31, 2006, in the West and East Valleys, to discuss these situations and explore resolutions.

Mr. Kard stated that to improve for the future, 75 training classes had been held for contractors; a sub-contractor task force conducted meetings with various building industry entities to discuss compliance issues; grading permits increased from 4,700 to 5,500 indicating an increase in compliance efforts; and inspectors responded to every dust and burn complaint. He noted that there were two laws regarding illegal open burns; a state law which allowed a fine of \$25 per day and a Maricopa County Rule which allowed up to \$10,000 per day. The Maricopa County Rule violation is now being enforced and seems to be having a positive impact.

There is interagency collaboration with MAG, and cities and towns within the county to address PM-10 issues on a regional basis. He stated that the Air Quality Department would like to train different departments within those entities to observe and report any problems, and to have citizens trained as observers.

Mr. Kard provided an overview of the staffing level for the Dust Program in his Department and indicated that with the new salary structure, Maricopa County should be competitive in the job market and be able to attract and retain people.

In response to a question from Supervisor Wilson, Mr. Kard stated that he would begin notifying the local officials in the cities and towns, to keep them apprised of offenders in their jurisdictions.

Mr. Kard reported that in 2002, Maricopa County had 19 ozone exceedance days; 11 in 2003; 1 in 2004 and 12 in 2005. There have been no reported days for 2006; however, April 1 through October 31 is the ozone season. He reported that portable gas analyzers would be used this year for the first time to enable inspectors to check sources that are never tested. Spot checks would be made, and the EPA thinks that would be a good idea and should help reduce emissions, e.g. internal combustion engines. He stated that the latest American Lung Association report scored an 'F' for Maricopa County for ozone levels and a "D" for particulates – which was based on PM-2.5 levels.

Mr. Kard provided an overview of the EPA Title V program and stated that he enlisted the assistance of Kate Graf as Permit Manager, and she was able to pull the program together. The EPA informed the Air Quality Department that the review of Maricopa County's Title V permits would only be a cursory review, as the permit program had made significant improvements and the allotted 45-day review period would not be required. Mr. Kard reported that they were still responding on a quarterly basis to the Notices of Deficiency and by November 17, 2006, all of the issues must be addressed and corrected.

Mr. Kard stated that his department wanted to do what was fair and by the rules, as well as educate businesses in the industry. He indicated his department wanted to be proactive with compliance assistance efforts to help people in any manner needed, e.g. one-on-one and creating check lists. In addition, there was an Arizona Association of Industries Conference held every year, and this year, in conjunction with that conference on May 25<sup>th</sup>, Blue Sky Awards would be given out to the stellar

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performers. He reviewed several other programs that would be instituted which should help companies self-regulate and stay in compliance with County rules and regulations.

Supervisor Wilson asked about the status of the Styrofoam cups and brickyard issues. Mr. Kard explained that these issues are still being worked through and they have put out rules for public comment. Supervisor Wilson asked Mr. Kard to provide a follow-up update.

**RESIGNATION AND APPOINTMENT**

Motion was made by Supervisor Wilson, seconded by Supervisor Brock, and unanimously carried (3-0-2) to accept the resignation of Mr. Jason Russell and appoint Mr. Dustin Jones to the Board of Adjustment and Drainage Review Board, representing Supervisorial District 4, to fill the unexpired terms, effective from Board of Supervisors' approval through February 19, 2007. (C0606064900) (ADM3412)

**INSIGHT VOTING MACHINES**

Item: Approve an administrative correction to the item approved on April 17, 2006, regarding the purchase of voting machines/related software and accessories (C2106008800). Correct the number of voting machines from 1,300 to 1,200. (ADM1700-002)

Brian Hushek, Deputy Budget Director, stated that this was a typographical error, and the original request should have been for 1,200 machines at a cost of \$6,400,000.

Motion was made by Supervisor Brock, seconded by Supervisor Wilson, and unanimously carried (3-0-2) to approve the administrative correction to the April 17, 2006 action.

**REGIONAL SCHOOL DISTRICT #509**

Item: The Board of Supervisors, pursuant to its authority granted in A.R.S. §15-1001, will consider for approval vouchers presented by the County School Superintendent of Maricopa County to draw warrants on the County Treasurer against Maricopa County Regional School District #509 School District funds for necessary expenses against the school district and obligations incurred for value received in services as shown in the Vouchers. (ADM3814-003)

The Board of Supervisors may consider ratifying any Maricopa County Regional School District #509 vouchers and/or warrants approved in accordance with the procedures of A.R.S. §15-321 since the last meeting of the Board of Supervisors. The Board of Supervisors may hear staff reports on the vouchers and warrants being considered. The Vouchers are on file in the Maricopa County's Clerk of the Board's office and are retained in accordance with ASLAPR approved retention schedule. (ADM3814-003)

Staff may update the Board of Supervisors on regional schools operations and finances. There was no staff report for this meeting. (ADM3814-005)

Motion was made by Supervisor Brock, seconded by Supervisor Wilson and unanimously carried (3-0-2) regarding action on the following vouchers:

- Approve Voucher No. 5160 \$65,241.44

**EXECUTIVE SESSION**

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Motion was made by Supervisor Brock, seconded by Supervisor Wilson, and unanimously carried (3-0-2) to recess and reconvene in Executive Session to consider items listed on the Executive Agenda dated May 1, 2006, pursuant to listed statutory authority, as follows.

**LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(3) and (A)(4)**

**Compromise Cases** – Barbara Caldwell, Outside Counsel  
Espejo, Yolanda                      Perez-Oregon, Lusinda                      Rowell, Brian

**PENDING OR CONTEMPLATED LITIGATION – ARS §38-431.03(A)(4)**

**Compliance Matters**

CE2005-0010 Larsen/Phelps  
CE2005-0009 Sheila M. Sullivan  
CE2004-0010 Troendle  
CE2004-0003 Travis and Sharon Kinney  
CE2005-0011 Terry and Jane Kitter  
Joy Rich, Assistant County Manager  
Kathryn McCormick, Deputy County Attorney

**LEGAL ADVICE – ARS §38-431.03(A)(3)**

**Legal advice regarding payroll deductions**

Elizabeth Yaquinto, Deputy County Attorney  
Chris Keller, Chief Counsel, Civil Division

**LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; SETTLEMENT DISCUSSIONS  
CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION – ARS §38-431.03(A)(3) and (A)(4)**

**Settlement Agreement between the Executive Director for Public Health and Maricopa County**

David Smith, County Manager  
Sandi Wilson, Deputy County Manager  
Gwynn Simpson, Director, Human Resources  
Mary C. Cronin, Deputy County Attorney  
Elizabeth Yaquinto, Deputy County Attorney

**LEGAL ADVICE; PENDING OR CONTEMPLATED LITIGATION; CONTRACTS SUBJECT TO  
NEGOTIATION – ARS §38-431.03(A)(3) AND (A)(4)**

**Advice regarding legal issues and options concerning County Regional School District/Accommodations School funding, management and audit issues.**

Chris Keller, Chief Counsel, Civil Division  
Sandi Wilson, Deputy County Manager  
Bruce White, Deputy County Attorney  
Brian Hushek, Deputy Budget Director  
Shelby Scharbach, Deputy Finance Director  
Dean Wolcott, Outside Counsel  
Tom Manos, Chief Financial Officer

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Ross Tate, County Auditor  
Tom Irvine, Outside Counsel  
Fred Rosenfeld, Outside Counsel  
LeeAnn Bohn, Budget Manager

**LEGAL ADVICE; CONTRACTS SUBJECT TO NEGOTIATION – ARS §38-431.03(A)(3) and (A)(4)**

**IGA between Maricopa County and the Maricopa County Regional School District #509 regarding school operations and financing.**

Chris Keller, Chief Counsel, Civil Division  
Sandi Wilson, Deputy County Manager  
Bruce White, Deputy County Attorney  
Brian Hushek, Deputy Budget Director  
Shelby Scharbach, Deputy Finance Director  
Dean Wolcott, Outside Counsel  
Tom Manos, Chief Financial Officer  
Ross Tate, County Auditor  
Tom Irvine, Outside Counsel  
Fred Rosenfeld, Outside Counsel  
LeeAnn Bohn, Budget Manager

**LEGAL ADVICE; CONTRACTS SUBJECT TO NEGOTIATION; PURCHASE, SALE OR LEASE OF REAL PROPERTY – ARS §38-431.03 (A)(3), (A)(4) and (A)(7)**

**Purchase, sale or lease of potential downtown campus property in order to help establish development priorities for county facilities**

Tom Manos, Chief Financial Officer  
Dennis Lindsey, Manager, Real Estate Services  
Brian Hushek, Deputy Budget Director  
William Riske, Deputy County Attorney

**PURCHASE, SALE OR LEASE OF REAL PROPERTY – ARS §38-431.03(A)(7)**

**Consideration to purchase downtown properties**

Tom Manos, Chief Financial Officer  
Dennis Lindsey, Manager, Real Estate Services  
Brian Hushek, Deputy Budget Director  
William Riske, Deputy County Attorney

**MEETING ADJOURNED**

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After discussion on the above items and there being no further business to come before the Board, the meeting was adjourned.

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Don Stapley, Chairman of the Board

ATTEST:

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Lori Pacini, Deputy Clerk of the Board